

103D CONGRESS
1ST SESSION

H. R. 664

To amend the Internal Revenue Code of 1986 to provide incentives for domestic timber production and manufacturing.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. DEFAZIO (for himself and Mrs. UNSOELD) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives for domestic timber production and manufacturing.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Domestic Timber Pro-
5 duction and Manufacturing Incentives Act”.

6 **SEC. 2. INVESTMENT INCENTIVE FOR DOMESTIC TIMBER**
7 **PRODUCTION.**

8 (a) IN GENERAL.—Part I of subchapter P of chapter
9 1 of the Internal Revenue Code of 1986 (relating to treat-

1 ment of capital gains) is amended by adding at the end
 2 the following new section:

3 **“SEC. 1202. INVESTMENT INCENTIVE FOR DOMESTIC TIM-**
 4 **BER PRODUCTION.**

5 “(a) IN GENERAL.—At the election of any taxpayer
 6 who has qualified timber gain for any taxable year, there
 7 shall be allowed as a deduction from gross income an
 8 amount equal to the qualified percentage of such gain.

9 “(b) QUALIFIED TIMBER GAIN.—For purposes of
 10 this section—

11 “(1) IN GENERAL.—The term ‘qualified timber
 12 gain’ means the lesser of—

13 “(A) the net capital gain for the taxable
 14 year, or

15 “(B) the net capital gain for the taxable
 16 year determined by taking into account only
 17 gains and losses from qualified timber.

18 “(2) QUALIFIED TIMBER.—The term ‘qualified
 19 timber’ means any timber with respect to which the
 20 taxpayer has provided assurances (which are satis-
 21 factory to the Secretary) that substantially all of the
 22 processing of the timber will occur within the United
 23 States.

24 “(c) QUALIFIED PERCENTAGE.—For purposes of this
 25 section, the term ‘qualified percentage’ means the percent-

1 age (not exceeding 50 percent) determined by multiply-
2 ing—

3 “(1) 2 percent, by

4 “(2) the number of years in the holding period
5 of the taxpayer with respect to the timber.

6 “(d) ESTATES AND TRUSTS.—In the case of an es-
7 tate or trust, the deduction under subsection (a) shall be
8 computed by excluding the portion (if any) of the gains
9 for the taxable year from sales or exchanges of capital as-
10 sets which, under sections 652 and 662 (relating to inclu-
11 sions of amounts in gross income of beneficiaries of
12 trusts), is includible by the income beneficiaries as gain
13 derived from the sale or exchange of capital assets.”

14 (b) COORDINATION WITH EXISTING LIMITATIONS.—

15 (1) Subsection (h) of section 1 of such Code
16 (relating to maximum capital gains rate) is amended
17 by inserting after “net capital gain” each place it
18 appears the following: “(other than qualified timber
19 gain with respect to which an election is made under
20 section 1202)”.

21 (2) Subsection (a) of section 1201 of such Code
22 (relating to alternative tax for corporations) is
23 amended by inserting after “net capital gain” each
24 place it appears the following: “(other than qualified

1 timber gain with respect to which an election is
2 made under section 1202)''.

3 (c) ALLOWANCE OF DEDUCTION IN COMPUTING AD-
4 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
5 such Code (relating to definition of adjusted gross income)
6 is amended by adding at the end the following new para-
7 graph:

8 “(14) INVESTMENT INCENTIVE FOR DOMESTIC
9 TIMBER PRODUCTION.—The deduction allowed by
10 section 1202.”

11 (d) CONFORMING AMENDMENT.—The table of sec-
12 tions for part I of subchapter P of chapter 1 of such Code
13 is amended by adding at the end the following new item:

“Sec. 1202. Investment incentive for domestic timber production.”

14 (e) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to sales or exchanges after the date
16 of the enactment of this Act.

17 **SEC. 3. APPLICATION OF PASSIVE LOSS LIMITATIONS TO**
18 **TIMBER ACTIVITIES.**

19 (a) DETERMINATION OF MATERIAL PARTICIPA-
20 TION.—Subsection (h) of section 469 of the Internal Reve-
21 nue Code of 1986 (defining material participation) is
22 amended by adding at the end the following new para-
23 graph:

24 “(6) TREATMENT OF TIMBER ACTIVITIES.—

1 “(A) IN GENERAL.—A taxpayer shall be
2 treated as materially participating in any tim-
3 ber activity for a taxable year if—

4 “(i) the taxpayer’s participation in the
5 activity for such year constitutes substan-
6 tially all of the participation in the activity
7 of all individuals for such year, other than
8 individuals—

9 “(I) who are not owners of inter-
10 ests in the activity,

11 “(II) who are retained and com-
12 pensated directly by the taxpayer, and

13 “(III) whose activities are subject
14 to the oversight, supervision, and con-
15 trol of the taxpayer, or

16 “(ii) based on all of the facts and cir-
17 cumstances, the taxpayer participates in
18 the activity on a regular, continuous, and
19 substantial basis during such year, except
20 that for purposes of this clause—

21 “(I) the taxpayer shall not be re-
22 quired to participate in the activity
23 for any minimum period of time dur-
24 ing such year, and

1 “(II) the performance of services
2 by individuals who are not owners of
3 interests in the activity shall not be
4 considered if the services are routinely
5 provided by individuals specializing in
6 such services and such services are
7 subject to the oversight, supervision,
8 and control of the taxpayer.

9 “(B) PARTNERS AND S CORPORATION
10 SHAREHOLDERS.—Subject to paragraph (2),
11 the determination of whether a partner or S
12 corporation shareholder shall be treated as ma-
13 terially participating in any timber activity of
14 the partnership or S corporation shall be based
15 upon the combined participation of all of the
16 partners or shareholders in the activity.

17 “(C) TIMBER ACTIVITY.—For purposes of
18 this paragraph, the term ‘timber activity’ means
19 the planting, cultivating, caring, cutting, or
20 preparation (other than milling) for market, of
21 trees.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxable years beginning after
24 the date of the enactment of this Act.

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